

Alaska Department of Environmental Conservation
Air Permits Work Group
September 23, 2002 Meeting Summary
Alaska Housing Finance Corporation Board Room
10:00 a.m. to 4:10 p.m.

Air Permits Work Group members present: Jordan Jacobsen, Tom Kuckertz, Charlotte MacCay, Mike Munger, Siftar, T.C. Wilson and Tom Chapple. Participating by teleconference was John Kuterbach.

Task Force Facilitation Team: Brian Rogers, Judith Erickson

Members of the public also attended.

Summary

Work group members agree that the business model used by the Alaska Dept. of Environmental Conservation (ADEC) for development and issuance of air quality permits is not working. Both the funding and the people necessary to work the permits are not available in sufficient quantities to avoid the very long delays now encountered in issuing permits. None of the stakeholders (ADEC, the Environmental Protection Agency (EPA), industry and the citizens) associated with the current air permits development process believe that it is adequate for its intended purpose.

The work group established the short-term and long-term goals.

Short-term goals

The group...

- intends to obtain a clear understanding of Alaska Department of Environmental Conservation (ADEC) and the Environmental Protection Agency (EPA) authority for the air permits program and the extent to which ADEC has discretion in implementing the Clean Air Act (CAA);
- seeks to clarify ADEC's legal ability to use contractors in operating the air program-
- plans to develop a mission statement for the air permits program and determine the funding level adequate to carry out that mission.
- intends to propose a process for issuance of Title V operating permits on ADEC's accelerated schedule that provides adequate funding and takes into account potential impacts on construction permits.
- will suggest improvements in the construction and operating permit programs designed to provide for timely issuance, predictable implementation of the permitting processes and consistent permitting requirements and enforcement.
- will propose an improved methodology for addressing air quality complaints, addressing in particular the criteria that should be met before investigating a regulated facility and before charging a regulated facility for an investigation.

Long-term goals

The group...

- develop a clear, unambiguous, workable action plan for development and implementation of a business model that allows ADEC to accomplish its air quality permits mission.

- expects to establish milestones for measuring short-term and long-term successes in the air permit program.
- will propose a plan to implement the work group's recommendations in a short period of time and provide ADEC with the necessary financial resources, including consideration of a new or updated fee structure.
- will suggest ways to increase overlap among various features of the air program, and thus facilitate one-stop shopping at ADEC regional offices.
- will offer process revisions designed to speed up the presentation and implementation of regulatory changes.

Welcome by Division of Air and Water Quality Director Tom Chapple

Tom Chapple welcomed work group members and thanked them for their service. Chapple said many states have environmental control boards that provide direction to their executive agencies. "My desire is that this group serves some of that purpose." He said the air permits program has reached a crossroads and some decisions are needed to change its path, from both a service and financial perspective.

Chapple noted a growing dissatisfaction with the services the air permits program is able to provide. He called on the work group to make recommendations on which services should be provided and how to pay for them. Chapple noted that Alaska, like a number of other states, is not meeting its federal mandate to issue Title V permits. He said ADEC has been working with the Environmental Protection Agency (EPA) on this issue and has agreed to issue all Title V permits by November 2003. Work has not yet begun on 70 to 80 Title V applications.

When making decisions about the future of the air permit program, Chapple asked members to keep the needs of the individual industries or groups they represent in balance with the interests of the state as a whole. He said the work group's recommendations will be very important for the new ADEC commissioner and will influence how the program moves forward in the future.

Chapple called on the work group to consider whether the state should retain primacy for the air permits program. "The situation is that serious relative to our ability to provide services and have the finances to support those services."

Introduction of Work Group members:

Each of the work group members identified themselves, who they work for and the industry or group they represent. Members introducing themselves were:

- Jordan Jacobsen, Alyeska Pipeline Service Co, representing the Alaska Oil and Gas Association;
- Tom Kuckertz, Prince William Sound Regional Citizens Advisory Council, citizen representative;
- Charlotte MacCay, Tec Cominco, Alaska, representing the Alaska Producers Council;
- Mike Munger, Cook Inlet Regional Citizens Advisory Council, citizen representative;
- Kate Siftar, U.S. Army, representing the military; and
- T.C. Wilson, with the Alaska Rural Electric Cooperative Association (ARECA).

Division of Air and Water Quality Director Tom Chapple and Work Permit Program Manager John Kuterbach attended on behalf of ADEC. Stephanie Madsen, Pacific Seafood Processors Association, was unable to attend.

Work group procedures

Facilitator Brian Rogers offered the following procedures for the Air Permits Work Group:

- All work group documents will be posted on the Air Permits Work Group web site, <http://www.state.ak.us/dec/dawq/aqm/group.htm>.
- Work group members and interested public will be sent an e-mail to notify them when something new has been posted to the site.
- Persons interested in being on the e-mail broadcast list can send a request to: airpermits@infoinsights.com.
- Summaries of every meeting will be prepared and sent to work group members for review before they are posted to the web site.

Rogers said work group consensus decisions reached at the October and November meetings will be incorporated into a draft final report and will be available for continued discussion at the final work group meeting in December. There will be an opportunity for members to express majority and minority opinions in the final report, which will be issued no later than December 31, 2002.

Work group issues and scope:

Work group members identified a number of issues they would like to address during their deliberations.

- Permit program staffing and funding in the context of each permitting program.
- Costs to acquire and maintain permits and equity in the fee structure among permittees.
- Construction and operating permit programs. There was a suggestion to examine the programs separately, and to examine the synergy between them and when each permit takes effect. Look at the services each program provides, timeliness in delivering their products and staffing.
- Construction permits. Look at streamlining the minor new source review program, adopting the federal PSD program for large sources, timelines for issuance of major and minor source permits, effectiveness of state-run technology programs, consistency in permit terms among facilities and state primacy on a permit-by-permit basis.
- Operating permits. Look at other state air permitting program processes and EPA's Part 70 program, with a view toward adopting or mimicking elements of those programs.
- What are Alaska's unique conditions that must be taken into account in its air permitting program? What provisions are needed in an air permitting program to deal with these unique conditions?
- What states are doing well in air permitting and what do they have that Alaska doesn't?
- State Implementation Plan (SIP). Update it so it works effectively.
- Enforcement of construction and operating permits. Enforcement personnel should be familiar with all permit conditions.
- Guidance for permit writers and the regulated community to make the program and regulations "user friendly."
- Clarity in regulations.
- Alignment between federal and state air permitting requirements.
- ADEC's authority for construction and operating permits. Determine where the state has discretion in issuance of air permits and the advantages of a state-run program. Where do state requirements exceed federal requirements?
- Review of monitoring requirements included in permits. What is necessary for enforcement?
- Streamline the permitting process.

The work group asked for additional information on the following topics.

- Air permit division funding and staffing.
- A report from ADEC and the EPA on where their respective air permitting requirements are in alignment and where they differ. Specifically address the contemporaneous period for cumulative emissions in the federal and state programs and the advantages to the federal and state approaches. Address requirements and costs of federal versus state implementation of Title I, Title V, NESHAPS, NSPS and PSD programs, and the financial implications if Alaska loses state primacy.
- Where does ADEC have permitting discretion.
- Program costs and equity in the fee structure.
- Information on permit fee structures in other states.
- Information on successful Title V permitting programs in other states.
- How ADEC can use third-party contractors to improve its services.
- Whether an emission fee can be charged retroactively. Can fees be charged without a change in the program's regulations.

ADEC presentation on Air Permit Program mission, work load and budget issues

Air Permit Program Manager John Kuterbach provided the work group with an overview of Alaska's Air Permit Program. Kuterbach's 50-minute PowerPoint presentation reviewed creation of the program, the current financial status including program costs, staffing and impacts on program services, steps the division has taken to address impacts, and recommendations in ADEC's *Benchmarking and Process Analysis Report* for improvements in the state's construction permitting program. He also discussed steps ADEC has taken to manage the air permits program within its budget authority, steps taken to generate additional revenue and the impacts of those management decisions on the program. An outline of the presentation can be found on the Air Permits Work Group web site at: airpermits@infoinsights.com.

Tom Chapple said the air permits program was crafted in statute to run like a small consulting firm to manage air permits and air quality. He noted that specific decisions made over the past three years to manage expenses have impacted program services. He encouraged the work group to address each of the problem areas highlighted in Kuterbach's presentation and recommend solutions for improvement.

Work Group meeting schedule:

The work group will hold a minimum of three meetings over the next three months. Members tentatively agreed on the following meeting schedule. Meeting notices and agendas will be posted on the web site.

October 25, 8:30 a.m. to 4:00 p.m.

November 20, 9:00 a.m. to 4:30 p.m.

December 17, 9:00 a.m. until work is completed.

October meeting agenda:

Work groups members agreed on the following topics for their October 25 meeting agenda.

- A report from ADEC and EPA, if available, comparing their respective rules, authority and costs for the Title I, Title V, NESHAPS, NSPS and PSD programs.
- A mission statement for the air permits program.
- A temporary fix for the Title V permitting program. If possible, hear from a representative of a state with industries similar to Alaska that has a well-run Title V permit program.
- Discussion of Alaska's unique conditions.
- Discussion of the state mimicking the EPA Part 70 program. Talk with a representative of a state that has adopted the EPA Part 70 program.